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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,181	12/29/2000	Larry W. Hinderks	3593-22	5827
23117	7590	04/06/2005	EXAMINER MA, JOHNNY	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			ART UNIT 2614	PAPER NUMBER

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/750,181

Applicant(s)

HINDERKS, LARRY W.

Examiner

Johnny Ma

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/01, 7/01, 3/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on November 8, 2004 is acknowledged. It is noted that applicant did not submit a grounds for traversal.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 2004/0078825 A1) in further view of Bradshaw et al. (US 6,674,731 B1) and Srinivasan et al. (US 2002/0038455 A1).

As to claim 1, note the Murphy reference that discloses a system and method for sending live video on the Internet. The claimed "formatting digital data, including video information, in accordance with an IP protocol to generate IP digital data" is met by "[t]he video server 310 typically receives the video feeds from the local video feed sources through a high-bandwidth Internet connection (T1, DSL, or cable broadband line) to the local PoP" (Murphy [0049]) wherein it is inherent that the transmitted data be formatted into digital data in accordance with an IP protocol for transmission over the Internet. The claimed "transmitting, in a relatively time-sensitive manner, the IP digital data from a transmission site to a remote Internet point of presence" is met by the transmission through a high-bandwidth Internet connection as discussed

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above wherein “[t]he propagation server 320 manages the video feeds handled by the local PoP, and controls the video server 310 to transmit the video feeds to requesting parties in the requested format and data rate” (Murphy [0048]). Note that such a transmission is inherently made in a relatively time-sensitive manner, wherein an all or a sufficient amount of data must be received at the local PoP in order to broadcast the programming in a continuous manner. However, the Murphy reference does not specifically disclose “via dedicated one-way transmission bandwidth substantially separate from the Internet backbone.” Now note the Bradshaw et al. reference that discloses the transmission and reception of TCP/IP data over a wireless communication channel. The claimed “via dedicated one-way transmission bandwidth substantially separate from the Internet backbone” is met by the transmission of Internet or other TCP/IP data over a satellite link (Bradshaw 3:32-39) wherein “data formatted as described in Fig. 7 is transmitted by the hub station 104 over the forward link 110 to satellite 106. The satellite receives the data from the forward link 110 and re-transmits them on a forward downlink 112” (Bradshaw 11:58-65). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Murphy high-bandwidth Internet connection with the Bradshaw high-bandwidth satellite link for the purpose of providing services to locations wherein there is no “copper wire” infrastructure in place, or where the infrastructure capacity is often exceeded by the demand placed upon the system (Bradshaw 3:32-39). The claimed “multicasting the IP digital data from the remote Internet point of presence for delivery to a plurality of separate receiving Internet user apparatus connected to but distal from the remote Internet point of presence” is met by PoP server multicasting the video content for access by subscribers (Murphy [0083]).

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Note, the Murphy reference discloses “[t]he video feed management system of the present invention facilitates the availability, transmission, and use of locally generated content wherever and whenever it is made available or occurs. This facility opens up a whole new universe of content for digital video production, digital TV programming, video-on-demand, pay-per-view, telemedicine conferencing, distance learning, video conferencing, video-enabled advertising, video-enabled customer services, sales, and other e-commerce services, etc.” (Murphy [0082]). However, the Murphy reference is silent as to substituting local digital data. Now note the Srinivasan et al. reference that discloses “a data network broadcast system which provides for the broadcast of video and audio programs to system users who have the capability to receive and process these types of multi-media information using a player such as Real Player, Oracle Video Client, or Microsoft’s NetShow” (Srinivasan [0040]). The claimed “substituting local IP digital data originating from a local server at the remote Internet point of presence for at least a portion of the IP digital data from the transmission site” is met by “[w]hen the commercial break is detected, the server, using the demographic information relating to the system users, temporarily stops the download of the program and accesses the database to retrieve a commercial directed to a particular system user. The commercial is downloaded to the system user and when complete, the download of the program is restarted” (Srinivasan [0075]). The claimed “the local IP digital data being separate from the IP digital data from the transmission site” is met by the disclosed separate database for the actual content of the commercials (Srinivasan [0061]). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Murphy PoP multicasting of video over the Internet with the Srinivasan insertion of advertisements for the purpose of providing targeted advertising to

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users in order to subsidize the cost of broadcasting the video content and increase revenues of the broadcaster. The claimed “multicasting the substituted IP digital data from the remote Internet point of presence for delivery to a plurality of separate receiving Internet user apparatus connected to but distal from the remote Internet point of presence” is met by the Murphy and Srinivasan combination as discussed above.

As to claim 2, the claimed “wherein the digital data of step a) includes video and/or audio information and the transmission of site” is met by “streaming video content can be comprised of video and/or video with audio” (Murphy [0030]). The claimed “b) is substantially a one-way data-flow transmission” is met by the forward downlink 112 as discussed in the rejection of claim 1.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 2004/0078825 A1) in further view of Bradshaw et al. (US 6,674,731 B1), Srinivasan et al. (US 2002/0038455 A1), and Safadi (US 6,487,721 B1).

As to claim 3, the claimed “wherein the step d) substituting of local IP digital data is initiated by an event trigger command embedded in the IP digital data.” Note the Murphy, Bradshaw et al., and Srinivasan et al. combination discloses all the limitations of claim 1 as discussed above. However the combination does not specifically disclose substitution initiated by an embedded trigger command. Now note the Safadi reference that discloses an apparatus and method for digital advertisement insertion in a bitstream. The claimed substitution initiated by an embedded event trigger is met by “[t]he inserter, in turn, determines whether to insert a commercial or pass the MPTS through intact (e.g., unchanged). The inserter’s decision is based on the presence of the cue command (or lack thereof). Therefore, the examiner submits that it

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would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the Murphy, Bradshaw et al., and Srinivasan et al. combination, teaching the substitution of content with advertisements, with the Safadi embedded trigger for the purpose of automatically detecting scheduled commercial breaks in the programming so as to present commercials at these times with minimal interruption to the broadcasted programming.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 2004/0078825 A1) in further view of Srinivasan et al. (US 2002/0038455 A1).

As to claim 4, note the Murphy reference that discloses a system and method for sending live video on the Internet. The claimed "receiving a digital data for multicasting at a remote Internet point of presence" is met by PoP and "[t]he video server 310 typically receives the video feeds from the local video feed sources through a high-bandwidth Internet connection (T1, DSL, or cable broadband line0 to the local PoP" (Murphy [0049]) wherein it is inherent that the video feeds comprise digital data to facilitate transmission over the Internet. The claimed "multicasting the received digital data from the remote Internet point of presence for delivery to a plurality of separate receiving Internet user apparatus connected to but distal from the remote Internet point of presence" is met by PoP server multicasting the video content for access by subscribers (Murphy [0083]). Also note, the Murphy reference discloses "[t]he video feed management system of the present invention facilitates the availability, transmission, and use of locally generated content wherever and whenever it is made available or occurs. This facility opens up a whole new universe of content for digital video production, digital TV programming, video-on-demand, pay-per-view, telemedicine conferencing, distance learning, video conferencing, video-enabled advertising, video-enabled customer services, sales, and other e-

commerce services, etc.” (Murphy [0082]). However, the Murphy reference is silent as to substituting local digital data. Now note the Srinivasan et al. reference that discloses “a data network broadcast system which provides for the broadcast of video and audio programs to system users who have the capability to receive and process these types of multi-media information using a player such as Real Player, Oracle Video Client, or Microsoft’s NetShow” (Srinivasan [0040]). The claimed “substituting local digital data originating from a local server at the remote Internet point of presence for at least a portion of the received digital data” is met by “[w]hen the commercial break is detected, the server, using the demographic information relating to the system users, temporarily stops the download of the program and accesses the database to retrieve a commercial directed to a particular system user. The commercial is downloaded to the system user and when complete, the download of the program is restarted” (Srinivasan [0075]). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Murphy PoP multicasting of video over the Internet with the Srinivasan insertion of advertisements for the purpose of providing targeted advertising to users in order to subsidize the cost of broadcasting the video content and increase revenues of the broadcaster. The claimed “multicasting the substituted local digital data from the remote Internet point of presence to a plurality of separate receiving Internet user apparatus connected to but distal from the remote Internet point of presence” is met by the Murphy and Srinivasan combination as discussed above.

### ***Conclusion***



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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Brassil et al. reference (US 2004/0210944 A1) discloses program insertion in real time IP multicast.

The Stiles reference (US 2002/0069416 A1) discloses methods and apparatus for multipoint-to-multipoint hierarchical redistribution of multimedia content.

The Eldering et al. reference (US 6,704,930 B1) discloses advertisement insertion techniques for digital video streams.

The Rowe et al. reference (US 2001/0003846 A1) discloses an encapsulated, streaming media automation and distribution system.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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